

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ALBERT BITTON,

Plaintiff,

v.

DEENA GEPHARDT *et al.*,

Defendants,

Case No. C07-5397BHS

REPORT AND
RECOMMENDATION

**NOTED FOR:
October 19, 2007**

This 42 U.S.C. § 1983 Civil Rights has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates' Rules MJR 1, MJR 3, and MJR 4.

This action was filed in July of 2007. (Dkt. # 1).

Plaintiff did not pay a filing fee and has not applied to proceed *in forma pauperis*. A deficiency letter outlining the defects in plaintiff's filings was mailed by the clerk's office on July 31, 2007, (Dkt. # 2). The defects noted were, no application for *in forma pauperis* status and no filing fee, insufficient number of copies for service, and no Marshals service forms (Dkt. # 2). Plaintiff was given until September 5, 2007, to cure the defects in his filings. There has been no response.

The court recommends the action be **DISMISSED WITHOUT PREJUDICE** for failure to prosecute. Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal rules of Civil Procedure, the

REPORT AND RECOMMENDATION

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1 parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed. R. Civ.
2 P. 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v.
3 Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to
4 set the matter for consideration on **OCTOBER 19, 2007**, as noted in the caption.

5
6 DATED this 24 day of September, 2007.

7
8 /S/ J. Kelley Arnold
9 J. Kelley Arnold
United States Magistrate Judge